



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assignee: Eagle New Media

Application No. 09/782,916

Filing Date: February 13, 2001

Confirmation No. 3196

First Named Applicant: Dan Kikinis

Docket No.: 091451.00131

Invention: A METHOD AND SYSTEM FOR LOCALIZED ADVERTISING
USING LOCALIZED 3-D TEMPLATES

**PETITION TO REVIVE UNAVOIDABLY
ABANDONED APPLICATION UNDER 37 CFR §1.137(a)**

Commissioner for Patents
Mail Stop Petition
P. O. Box 1450
Alexandria, Virginia 22313-1450

S I R:

This is a Petition to Revive an Unavoidable Abandoned Application and to accept a Response to Final Office Action (filed herewith) that was due on June 25, 2004.

Delay Unavoidable

The abandonment of the above-captioned patent application was unavoidable. I, Todd S. Parkhurst, am the attorney for Assignee, Eagle New Media. A Final Office Action (purportedly mailed to Counsel on March 25, 2004) was never received by Assignee or by me, the attorney of record, or by my firm, Holland & Knight LLP. Todd S. Parkhurst and Assignee continuously maintained an electronic docketing system to ensure timely responses to USPTO correspondence. In this case, however, neither the attorney of record nor the Assignee received the Final Office Action from the USPTO, hence our lack of response being unavoidable. In fact, the USPTO records show that the Final Office Action was mailed to Blakely, Sokoloff, Taylor & Zafman LLP, assignee's previous counsel. Significantly, the

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Final Office Action was mailed nearly three months after a duly executed Revocation and new Power of Attorney was filed with the USPTO. This new Power of Attorney set forth assignee's new counsel, Holland and Knight LLP, on December 29, 2003. Nonetheless, the Final Office Action was inadvertently mailed by the USPTO to Blakely, Sokoloff, Taylor & Zafman on March 25, 2004. Moreover, the Final Office Action was neither forwarded to nor received by Holland & Knight LLP.

We became aware of the expiration of the term to respond to the Final Office Action in late September 2005 when we learned from Examiner Jankus that the application was abandoned. During the phone conversation, Examiner Jankus indicated that he would speak to supervisors and determine whether the abandonment status may be changed based on the circumstances. We diligently contacted Examiner Jankus to determine whether we would need to file this petition or whether the status may simply be changed by the USPTO. It is submitted that reasonable care was taken to ensure timely responses to USPTO correspondence and that this petition has been promptly filed after learning of the expiration of the term to respond to the Final Office Action and the need to file this Petition to Revive for Unavoidable Delay.

Fees

A check for \$500.00 is attached to cover the surcharge for an unavoidably abandoned patent application set forth in 37 C.F.R. §1.17(l). Authorization is hereby made to charge Deposit Account No. 50-1794 any additional fees required by this petition or credit any overpayment in the matter to Deposit Account No. 50-1794.

A duplicate of this petition is attached.

Respectfully submitted,



(Atty. Reg. No. 26,494)

Date: November 8, 2005

Todd S. Parkhurst

HOLLAND & KNIGHT LLP

131 South Dearborn Street, 30th Floor

Chicago, IL 60603

(312) 236-3600

Attorney for Assignee

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail on November 8, 2005, in an envelope addressed to:

**Mail Stop Petition
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450**

Date: November 8, 2005

A handwritten signature in black ink, appearing to read "T. J. Parnell", written over a horizontal line.

Attorney for Applicant

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